Montana
Association of REALTORS®
Political Affairs

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 8
DATE 1.30.09
BILL NO. SB 61

One South Montana Avenue, Suite M1 · Helena, MT 59601
Phone: 406-443-4032 · Fax: 406-443-4220 · Toll Free: 800-477-1864
Email: mtmar@montanarealtors.org · Web: www.montanarealtors.org

Testimony of Montana Association of REALTORS® (MAR)
Glenn Oppel, Government Affairs Director
Senate Local Government Committee
Jan. 30, 2009, 3:00 p.m.

Oppose Senate Bill 61 – Public school consideration in impact fees

On behalf of its 4,600 members statewide, MAR opposes Senate Bill 61. SB61 seeks to make it easier for local governments to impose impact fees for school facilities as well as require subdividers to pay for improvements to school facilities through subdivision regulations. REALTORS® support Montana's K-12 public school system but we are very concerned that the intent behind SB61 is to require new development to pay more than its fair share for the improvement of school facilities. Impact fees already pose a major threat to housing affordability in many of our higher growth localities. MAR has witnessed school impact fee proposals as high as $10,000 per subdivision lot. Clearly, SB61 would only exacerbate the housing affordability challenges faced by these localities.

SB61 amendments to the Impact Fee Act and the Subdivision and Platting Act may seem like a noble idea at first blush. After all, SB61 endeavors to provide more revenue for school facilities – something we all care about. However, due to the nature of development's impact on school facilities, REALTORS® believe that SB61 is ill-advised for the following reasons:

1. **New growth pays its way:** New residential and commercial development greatly enhances the tax base enabling communities to invest in critical infrastructure such as schools.

   The real estate industry has been the major driver of Montana's economic prosperity over the last decade. The real estate sector of the economy (home sales and home construction) constitutes about 15 percent of Montana Gross State Product and generates employment for nearly 10 percent of Montana's workforce. The economic impact of the real estate sector in the 10 largest counties in the state exceeds $2 billion and generates almost $1 billion in tax revenue.

2. **Public benefit means the public should pay:** The public accrues general benefits from public education with a better educated citizenry and workforce and therefore should generally bear the cost of improving and expanding school facilities.

   The Impact Fee Act of 2005 authorized local governments to impose impact fees for capital facilities that are directly related to new growth, including roads, water lines, wastewater lines, stormwater collection, and emergency services. The Act allows for impact fees for what are considered "other facilities." The Act does not explicitly define what "other facilities" are, but it does impose three basic requirements for the imposition of impact fees for "other facilities":

   1. The facility must be part of the jurisdiction's Capital Improvement Plan, which can include school facilities.
   2. A supermajority vote of the City Council or a unanimous vote of a County Commission is required for enactment.
   3. Compliance with the requirements of 7-6-1602(5):

      (5) An impact fee must meet the following requirements:
      (a) The amount of the impact fee must be reasonably related to and reasonably attributable

to the development's share of the cost of infrastructure improvements made necessary by the new development.

(b) The impact fees imposed may not exceed a proportionate share of the costs incurred or to be incurred by the governmental entity in accommodating the development. The following factors must be considered in determining a proportionate share of public facilities capital improvements costs:

(i) the need for public facilities capital improvements required to serve new development; and

(ii) consideration of payments for system improvements reasonably anticipated to be made by or as a result of the development in the form of user fees, debt service payments, taxes, and other available sources of funding the system improvements.

(c) Costs for correction of existing deficiencies in a public facility may not be included in the impact fee.

(d) New development may not be held to a higher level of service than existing users unless there is a mechanism in place for the existing users to make improvements to the existing system to match the higher level of service.

(e) Impact fees may not include expenses for operations and maintenance of the facility.

3. **New growth has a negligible impact on school facilities:** According to the National Association of REALTORS® "Profile of Home Buyers and Sellers 2008" (see pie graph below) a vast majority of homebuyers purchasing newly-constructed homes do not have children. Hence, one can assume that most new development will have a negligible impact on school facilities.

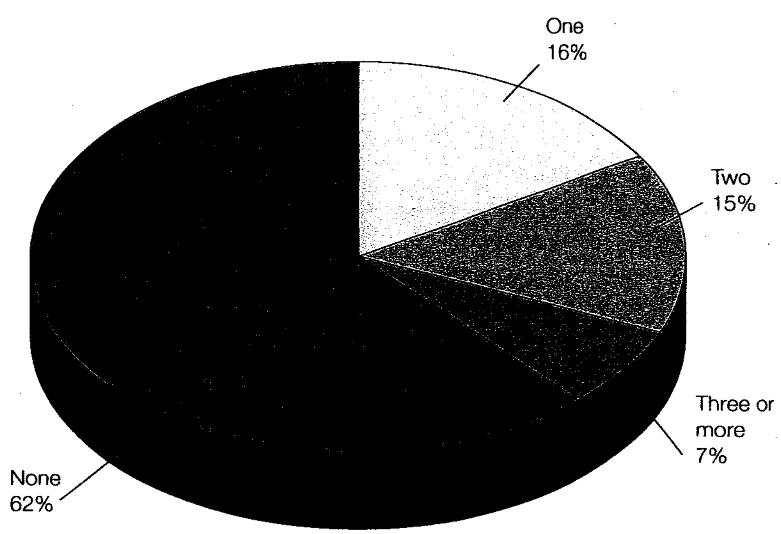
NUMBER OF CHILDREN

Three-fifths of home buyers do not have any children under 18 residing in the household. The majority of home buyers with children have one or two. They comprise 16 and 15 percent of all buyers respectively. Those with three or more children are 7 percent of all buyers.

Exhibit 1-4

NUMBER OF CHILDREN UNDER THE AGE OF 18 RESIDING IN HOUSEHOLD

(Percentage Distribution of Households)



Recent national economic conditions have dampened decade-long growth in the real estate sector of Montana's economy. Higher growth areas around the state are feeling the ripple effects of national economic trends. *Because of this tenuous economic situation, REALTORS® believe that the Legislature should proceed cautiously with proposals that seek to increase regulations and costs for new development.* The ability of local economies to expand businesses and attract new ones is intricately tied to the affordability of workforce housing. Adding unnecessary regulatory costs to housing construction will only exacerbate the market challenges already faced by the real estate industry and local economies.

MAR urges a "do not pass" on Senate Bill 61 because it could drastically increase the cost of housing.